



Reprinted
February 16, 2005

HOUSE BILL No. 1746

DIGEST OF HB 1746 (Updated February 15, 2005 4:32 pm - DI 107)

Citations Affected: IC 5-2; IC 35-50.

Synopsis: Sex offender registry and death sentences. Adds registered neighborhood associations to the list of entities that must periodically receive the sex and violent offender directory published by the criminal justice institute. Provides that the state shall seek a death sentence for a person who intentionally kills a person under 18 years of age while committing or attempting to commit child molesting, criminal deviate conduct, kidnapping, rape, or criminal confinement. Adds criminal confinement to the list of crimes that the state may seek a death sentence or life imprisonment without parole for when murder is also committed.

Effective: July 1, 2005.

Budak, Ayres, Ulmer, Kuzman

January 19, 2005, read first time and referred to Committee on Courts and Criminal Code.
February 8, 2005, reported — Do Pass.
February 15, 2005, read second time, amended, ordered engrossed.

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HB 1746—LS 7538/DI 106+



Reprinted
February 16, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1746

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-6-3.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. (a) The sex and
3 violent offender directory established under section 3 of this chapter
4 must include the names of each offender who is or has been required
5 to register under IC 5-2-12.

6 (b) The institute shall do the following:

7 (1) Update the directory at least one (1) time every six (6) months.

8 (2) Publish the directory on the Internet through the computer
9 gateway administered by the intelnet commission under
10 IC 5-21-2 and known as accessIndiana.

11 (3) Make the directory available on a computer disk and, at least
12 one (1) time every six (6) months, send a copy of the computer
13 disk to the following:

14 (A) All school corporations (as defined in IC 20-1-6-1).

15 (B) All nonpublic schools (as defined in IC 20-10.1-1-3).

16 (C) All state agencies that license individuals who work with
17 children.

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(D) The state personnel department to screen individuals who may be hired to work with children.

(E) All child care facilities licensed by or registered in the state.

(F) A neighborhood association that:

(i) registers with the institute;

(ii) includes a description of the geographic boundaries of the neighborhood association with its registration;

(iii) requests a copy of the directory; and

(iv) submits the name and address of a neighborhood association contact person to the institute at least one (1) time each year.

~~(F)~~ **(G) Other entities that:**

(i) provide services to children; and

(ii) request the directory.

(4) Maintain a hyperlink on the institute's computer web site that permits users to connect to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5.

(5) Make a paper copy of the directory available upon request.

(c) A copy of the directory:

(1) provided to a child care facility under subsection (b)(3)(E);

(2) provided to another entity that provides services to children under subsection ~~(b)(3)(F)~~; **(b)(3)(G)**; or

(3) that is published on the Internet under subsection (b)(2);

must include the home address of an offender whose name appears in the directory.

(d) When the institute publishes on the Internet or distributes a copy of the directory under subsection (b), the institute shall include a notice using the following or similar language:

"Based on information submitted to the criminal justice institute, a person whose name appears in this directory has been convicted of a sex offense or a violent offense or has been adjudicated a delinquent child for an act that would be a sex offense or violent offense if committed by an adult."

SECTION 2. IC 35-50-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) **Except as provided in subsection (c)**, the state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the

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existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is a mentally retarded individual.

(b) ~~The~~ **For purposes of subsection (a)**, the aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:

- (A) Arson (IC 35-43-1-1).
- (B) Burglary (IC 35-43-2-1).
- (C) Child molesting (IC 35-42-4-3).
- (D) Criminal deviate conduct (IC 35-42-4-2).
- (E) Kidnapping (IC 35-42-3-2).
- (F) Rape (IC 35-42-4-1).
- (G) Robbery (IC 35-42-5-1).
- (H) Carjacking (IC 35-42-5-2).
- (I) Criminal gang activity (IC 35-45-9-3).
- (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

(K) Criminal confinement (IC 35-42-3-3).

(2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure person or damage property.

(3) The defendant committed the murder by lying in wait.

(4) The defendant who committed the murder was hired to kill.

(5) The defendant committed the murder by hiring another person to kill.

(6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:

- (A) the victim was acting in the course of duty; or
- (B) the murder was motivated by an act the victim performed while acting in the course of duty.

(7) The defendant has been convicted of another murder.

(8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.

(9) The defendant was:

- (A) under the custody of the department of correction;
- (B) under the custody of a county sheriff;
- (C) on probation after receiving a sentence for the commission

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- 1 of a felony; or
 2 (D) on parole;
 3 at the time the murder was committed.
 4 (10) The defendant dismembered the victim.
 5 (11) The defendant burned, mutilated, or tortured the victim while
 6 the victim was alive.
 7 (12) The victim of the murder was less than twelve (12) years of
 8 age.
 9 (13) The victim was a victim of any of the following offenses for
 10 which the defendant was convicted:
 11 (A) Battery as a Class D felony or as a Class C felony under
 12 IC 35-42-2-1.
 13 (B) Kidnapping (IC 35-42-3-2).
 14 (C) Criminal confinement (IC 35-42-3-3).
 15 (D) A sex crime under IC 35-42-4.
 16 (14) The victim of the murder was listed by the state or known by
 17 the defendant to be a witness against the defendant and the
 18 defendant committed the murder with the intent to prevent the
 19 person from testifying.
 20 (15) The defendant committed the murder by intentionally
 21 discharging a firearm (as defined in IC 35-47-1-5):
 22 (A) into an inhabited dwelling; or
 23 (B) from a vehicle.
 24 (16) The victim of the murder was pregnant and the murder
 25 resulted in the intentional killing of a fetus that has attained
 26 viability (as defined in IC 16-18-2-365).
 27 **(c) The state shall seek a death sentence by alleging, on a page**
 28 **separate from the rest of the charging instrument, the existence of**
 29 **at least one (1) of the aggravating circumstances listed in**
 30 **subsection (d). In the sentencing hearing after a person is convicted**
 31 **of murder, the state must prove beyond a reasonable doubt the**
 32 **existence of at least one (1) of the aggravating circumstances**
 33 **described in subsection (b). However, the state may not proceed**
 34 **against a defendant under this section if a court determines at a**
 35 **pretrial hearing under IC 35-36-9 that the defendant is a mentally**
 36 **retarded individual.**
 37 **(d) For purposes of subsection (c), the aggravating**
 38 **circumstances exist if both of the following circumstances exist:**
 39 **(1) The victim was less than eighteen (18) years of age.**
 40 **(2) The defendant committed the murder by intentionally**
 41 **killing the victim while committing or attempting to commit**
 42 **any of the following:**

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1 **(A) Child molesting (IC 35-42-4-3).**

2 **(B) Criminal deviate conduct (IC 35-42-4-2).**

3 **(C) Kidnapping (IC 35-42-3-2).**

4 **(D) Rape (IC 35-42-4-1).**

5 **(E) Criminal confinement (IC 35-42-3-3).**

6 ~~(c)~~ **(e)** The mitigating circumstances that may be considered under
7 this section are as follows:

8 (1) The defendant has no significant history of prior criminal
9 conduct.

10 (2) The defendant was under the influence of extreme mental or
11 emotional disturbance when the murder was committed.

12 (3) The victim was a participant in or consented to the defendant's
13 conduct.

14 (4) The defendant was an accomplice in a murder committed by
15 another person, and the defendant's participation was relatively
16 minor.

17 (5) The defendant acted under the substantial domination of
18 another person.

19 (6) The defendant's capacity to appreciate the criminality of the
20 defendant's conduct or to conform that conduct to the
21 requirements of law was substantially impaired as a result of
22 mental disease or defect or of intoxication.

23 (7) The defendant was less than eighteen (18) years of age at the
24 time the murder was committed.

25 (8) Any other circumstances appropriate for consideration.

26 ~~(d)~~ **(f)** If the defendant was convicted of murder in a jury trial, the
27 jury shall reconvene for the sentencing hearing. If the trial was to the
28 court, or the judgment was entered on a guilty plea, the court alone
29 shall conduct the sentencing hearing. The jury or the court may
30 consider all the evidence introduced at the trial stage of the
31 proceedings, together with new evidence presented at the sentencing
32 hearing. The court shall instruct the jury concerning the statutory
33 penalties for murder and any other offenses for which the defendant
34 was convicted, the potential for consecutive or concurrent sentencing,
35 and the availability of good time credit and clemency. The court shall
36 instruct the jury that, in order for the jury to recommend to the court
37 that the death penalty or life imprisonment without parole should be
38 imposed, the jury must find at least one (1) aggravating circumstance
39 beyond a reasonable doubt as described in subsection ~~(k)~~ **(n)** and shall
40 provide a special verdict form for each aggravating circumstance
41 alleged. The defendant may present any additional evidence relevant
42 to:

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(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection ~~(c)~~:
(e).

~~(c)~~ (g) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection ~~(f)~~: (n). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

~~(f)~~ (h) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

~~(g)~~ (i) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole;

only if it makes the findings described in subsection ~~(f)~~: (n).

~~(h)~~ (j) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

~~(i)~~ (k) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall

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enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) (l) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

(1) conviction or sentence was in violation of the:

(A) Constitution of the State of Indiana; or

(B) Constitution of the United States;

(2) sentencing court was without jurisdiction to impose a sentence; and

(3) sentence:

(A) exceeds the maximum sentence authorized by law; or

(B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h); (j), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

(k) (m) A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence that undermines confidence in the conviction or the death sentence. If necessary, the supreme court may remand the case to the trial court for an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to remand the case to the trial court for an evidentiary hearing without first providing the attorney general with an opportunity to be heard on the matter.

(l) (n) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e); (g), or the court, in a proceeding under subsection (g); (i), must find that:

(1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and

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- 1 (2) any mitigating circumstances that exist are outweighed by the
2 aggravating circumstance or circumstances.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1746, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

ULMER, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1746 be amended to read as follows:

Page 2, after line 31 begin a new paragraph and insert:

"SECTION 1. IC 35-50-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) **Except as provided in subsection (c)**, the state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is a mentally retarded individual.

(b) ~~The~~ **For purposes of subsection (a)**, the aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:

- (A) Arson (IC 35-43-1-1).
- (B) Burglary (IC 35-43-2-1).
- (C) Child molesting (IC 35-42-4-3).
- (D) Criminal deviate conduct (IC 35-42-4-2).
- (E) Kidnapping (IC 35-42-3-2).
- (F) Rape (IC 35-42-4-1).
- (G) Robbery (IC 35-42-5-1).
- (H) Carjacking (IC 35-42-5-2).
- (I) Criminal gang activity (IC 35-45-9-3).
- (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

(K) Criminal confinement (IC 35-42-3-3).

(2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure person or damage property.

(3) The defendant committed the murder by lying in wait.

(4) The defendant who committed the murder was hired to kill.

(5) The defendant committed the murder by hiring another person to kill.

(6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement

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officer, and either:

- (A) the victim was acting in the course of duty; or
- (B) the murder was motivated by an act the victim performed while acting in the course of duty.
- (7) The defendant has been convicted of another murder.
- (8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.
- (9) The defendant was:
 - (A) under the custody of the department of correction;
 - (B) under the custody of a county sheriff;
 - (C) on probation after receiving a sentence for the commission of a felony; or
 - (D) on parole;
 at the time the murder was committed.
- (10) The defendant dismembered the victim.
- (11) The defendant burned, mutilated, or tortured the victim while the victim was alive.
- (12) The victim of the murder was less than twelve (12) years of age.
- (13) The victim was a victim of any of the following offenses for which the defendant was convicted:
 - (A) Battery as a Class D felony or as a Class C felony under IC 35-42-2-1.
 - (B) Kidnapping (IC 35-42-3-2).
 - (C) Criminal confinement (IC 35-42-3-3).
 - (D) A sex crime under IC 35-42-4.
- (14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.
- (15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):
 - (A) into an inhabited dwelling; or
 - (B) from a vehicle.
- (16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).

(c) The state shall seek a death sentence by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (d). In the sentencing hearing after a person is convicted

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of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances described in subsection (b). However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is a mentally retarded individual.

(d) For purposes of subsection (c), the aggravating circumstances exist if both of the following circumstances exist:

- (1) The victim was less than eighteen (18) years of age.
- (2) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:
 - (A) Child molesting (IC 35-42-4-3).
 - (B) Criminal deviate conduct (IC 35-42-4-2).
 - (C) Kidnapping (IC 35-42-3-2).
 - (D) Rape (IC 35-42-4-1).
 - (E) Criminal confinement (IC 35-42-3-3).

~~(c)~~ (e) The mitigating circumstances that may be considered under this section are as follows:

- (1) The defendant has no significant history of prior criminal conduct.
- (2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.
- (3) The victim was a participant in or consented to the defendant's conduct.
- (4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.
- (5) The defendant acted under the substantial domination of another person.
- (6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.
- (7) The defendant was less than eighteen (18) years of age at the time the murder was committed.
- (8) Any other circumstances appropriate for consideration.

~~(d)~~ (f) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the

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proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of good time credit and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection ~~(k)~~ **(n)** and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

- (1) the aggravating circumstances alleged; or
- (2) any of the mitigating circumstances listed in subsection ~~(c)~~ **(e)**.

~~(c)~~ **(g)** For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

- (1) the death penalty; or
- (2) life imprisonment without parole;

only if it makes the findings described in subsection ~~(f)~~ **(n)**. If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

~~(f)~~ **(h)** If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

~~(g)~~ **(i)** If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

- (1) sentence the defendant to death; or
- (2) impose a term of life imprisonment without parole;

only if it makes the findings described in subsection ~~(f)~~ **(n)**.

~~(h)~~ **(j)** If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a

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death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

~~(i)~~ **(k)** If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

~~(j)~~ **(l)** A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

- (1) conviction or sentence was in violation of the:
 - (A) Constitution of the State of Indiana; or
 - (B) Constitution of the United States;
- (2) sentencing court was without jurisdiction to impose a sentence; and
- (3) sentence:
 - (A) exceeds the maximum sentence authorized by law; or
 - (B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection ~~(h)~~, **(j)**, the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

~~(k)~~ **(m)** A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence that undermines confidence in the conviction or the death sentence. If necessary, the supreme court may remand the case to the trial court for

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an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to remand the case to the trial court for an evidentiary hearing without first providing the attorney general with an opportunity to be heard on the matter.

(f) (n) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), (g), or the court, in a proceeding under subsection (g), (i), must find that:

- (1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and
- (2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances."

(Reference is to HB 1746 as printed February 9, 2005.)

GOODIN

HOUSE MOTION

Mr. Speaker: I move that House Bill 1746 be amended to read as follows:

Page 2, line 8, delete "and".

Page 2, line 9, delete "." and insert "; and

(iv) submits the name and address of a neighborhood association contact person to the institute at least one (1) time each year."

(Reference is to HB 1746 as printed February 9, 2005.)

VAN HAAFTEN

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